

Hon. Lauren King

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ESTATE OF WILLIAM ABBE, deceased,  
and KARA BRANDON, as personal  
representative for the ESTATE OF  
WILLIAM ABBE;  
Plaintiff,

vs.

CITY OF VANCOUVER; JAY ALIE,  
individually and as an employee of Vancouver  
Police Department, SEAN SUAREZ,  
individually and as an employee of Vancouver  
Police Department, SAMMY ABDALA,  
individually and as an employee of Vancouver  
Police Department,

Defendants.

No. 3:21-cv-5790-LK

DEFENDANTS' FIRST AMENDED  
ANSWER AND AFFIRMATIVE  
DEFENSES IN RESPONSE TO  
PLAINTIFF'S COMPLAINT

**JURY DEMAND**

Defendants City of Vancouver, Jay Alie, Sean Suarez, and Sammy Abdala hereby amend their previously filed answer (Dkt. 14) and respond to the allegations contained in Plaintiff's Complaint (Dkt. 1) as follows. In response to the headings "I. INTRODUCTION," "II. PARTIES," "III. JURISDICTION AND VENUE," "IV. FACTUAL ALLEGATIONS," "V. FIRST CAUSE OF ACTION / EXCESSIVE FORCE (4th Amendment and 42 U.S.C. § 1983, *et seq.* (ALIE) (SUAREZ) (ABDALA)," "VI. SECOND CAUSE OF ACTION / DUE PROCESS- EXCESSIVE FORCE (14th Amendment and 42 U.S.C. § 1983, *et seq.* (ALIE) (SUAREZ) (ABDALA)," "VII. THIRD CAUSE OF ACTION / MONELL CLAIM / RATIFICATION (42 U.S.C. § 1983 *et seq.*) (CITY OF VANCOUVER)," "VIII. FOURTH CAUSE OF ACTION /

1 MONELL CLAIM / POLICY OR PRACTICE (42 U.S.C. § 1983 *et seq.*) (CITY OF  
 2 VANCOUVER),” “IX. FIFTH CAUSE OF ACTION / NEGLIGENCE (State Law) (ALIE)  
 3 (SUAREZ) (ABDALA) (CITY),” “X. SIXTH CAUSE OF ACTION / ASSAULT AND  
 4 BATTERY (ALIE) (SUAREZ) (ABDALA) (CITY),” “XI. SEVENTH CAUSE OF ACTION /  
 5 WRONGFUL DEATH (State Law RCW 4.20.010-.020) (ALIE) (SUAREZ) (ABDALA)  
 6 (CITY),” “XII. INDEMNIFICATION,” “XIII. RESPONDEAT SUPERIOR,” “XIV.  
 7 DAMAGES AND PRAYER FOR RELIEF,” and “XV. JURY DEMAND,” to the extent a  
 8 response is required and to the extent they allege that Plaintiff’s Complaint has any legal or  
 9 factual merit, Defendants deny the same. Unless otherwise specified herein, the paragraph  
 10 numbers contained in this pleading correspond to the paragraph numbers contained in Plaintiff’s  
 11 Complaint.

12 Paragraphs 1.1 through 1.3 do not make any factual allegations, but rather seek to  
 13 characterize Plaintiff’s complaint solely to sensationalize the allegations against Defendants. To  
 14 the extent Paragraphs 1.1 through 1.3 allege that Plaintiff’s Complaint has any legal or factual  
 15 merit, Defendants deny the same.

16 2.1 Admitted that Defendant City of Vancouver is a municipal corporation located in  
 17 and organized under the laws of the State of Washington. To the extent Paragraph 2.1 alleges  
 18 anything further or anything different, Defendants deny the same.

19 2.2 Admitted that Defendant Alie was employed by the City of Vancouver on April  
 20 28, 2020, and was acting within the course and scope of his employment that day. To the extent  
 21 Paragraph 2.2 alleges anything further or anything different, Defendants deny the same.

22 2.3 Admitted that Defendant Suarez was employed by the City of Vancouver on April  
 23 28, 2020, and was acting within the course and scope of his employment that day. To the extent  
 24 Paragraph 2.3 alleges anything further or anything different, Defendants deny the same.  
 25

1           2.4     Admitted that Defendant Abdala was employed by the City of Vancouver on April  
2 28, 2020, and was acting within the course and scope of his employment that day. To the extent  
3 Paragraph 2.4 alleges anything further or anything different, Defendants deny the same.

4           2.5     Admitted that William Abbe was 50 years old at the time of his death on April 28,  
5 2020. To the extent Paragraph 2.5 alleges anything further or anything different, Defendants deny  
6 the same.

7           2.6     Defendants are without sufficient information to form a belief as to the truth or  
8 falsity of this allegation and therefore deny the same.

9           In answer to Paragraphs 3.1-3.7, Defendants admit subject matter jurisdiction exists in  
10 this Court, admit that this Court has personal jurisdiction over them, and admit that venue is  
11 proper in this Court. To the extent these paragraphs allege anything further or anything different,  
12 Defendants deny the same.

13           4.1.     Defendants are without sufficient information to form a belief as to the truth or  
14 falsity of this allegation and therefore deny the same.

15           4.2.     Defendants are without sufficient information to form a belief as to the truth or  
16 falsity of this allegation and therefore deny the same.

17           4.3.     Defendants are without sufficient information to form a belief as to the truth or  
18 falsity of this allegation and therefore deny the same.

19           4.4.     Defendants are without sufficient information to form a belief as to the truth or  
20 falsity of this allegation and therefore deny the same.

21           4.5.     Defendants are without sufficient information to form a belief as to the truth or  
22 falsity of this allegation and therefore deny the same.

23           4.6.     Defendants are without sufficient information to form a belief as to the truth or  
24 falsity of this allegation and therefore deny the same.

1           4.7. Admitted William Abbe was in the City of Vancouver on April 28, 2020. To the  
2 extent this paragraph alleges anything further or anything different, Defendants deny the same.

3           4.8. Admitted.

4           4.9. Denied.

5           4.10. Admitted there was no precipitation on April 28, 2020, in Vancouver,  
6 Washington. To the extent this paragraph alleges anything further or anything different,  
7 Defendants deny the same.

8           4.11. Defendants are without sufficient information to form a belief as to the truth or  
9 falsity of this allegation and therefore deny the same.

10           4.12. If the word “altercation” in this paragraph means beating Steven Moffa over the  
11 head with a sharpened metal pipe to the point that Moffa was rendered unconscious, admitted. If  
12 this paragraph is intended to suggest that Abbe did not in fact beat Moffa over the head or that  
13 the “altercation” was anything less than what is described herein, denied.

14           4.13. Admitted.

15           4.14. Admitted.

16           4.15. Admitted.

17           4.16. Admitted that six vehicles were parked either along Stapleton Ave or in the  
18 parking lot where the incident occurred. To the extent this paragraph alleges anything further or  
19 anything different, Defendants deny the same.

20           4.17. Admitted.

21           4.18. If the term “agent” is meant to allege that Sgt. Alie, Ofc. Suarez, and Ofc. Abdala  
22 were acting within the course and scope of employment at all times relevant to this matter,  
23 admitted. To the extent this paragraph alleges anything further or anything different, Defendants  
24 deny the same.  
25

1 4.19. Admitted.

2 4.20. Admitted.

3 4.21. Denied.

4 4.22. To the extent this paragraph is meant to suggest that William Abbe did not cause  
5 any physical injury as a result of his actions or that his actions were not intended to cause any  
6 physical injury of VPD officers or others, denied. Otherwise, admitted.

7 4.23. Admitted that the aggregate number of rounds fired by Sgt. Alie, Ofc. Suarez, and  
8 Ofc. Abdala totaled five. Denied that each officer fired five rounds. Denied that all five rounds  
9 hit William Abbe. To the extent this paragraph alleges anything further or anything different,  
10 Defendants deny the same.

11 4.24. Admitted that “[t]here were several other VPD officers present and interacting  
12 with Mr. Abbe.” To the extent “weapons” is meant to include only firearms that fire bullets,  
13 admitted. Otherwise, denied. To the extent this paragraph alleges anything further or anything  
14 different, Defendants deny the same.

15 4.25. To the extent this paragraph is meant to suggest that William Abbe did not intend  
16 to cause any physical injury of VPD officers or others, denied. Otherwise, admitted.

17 4.26. Admitted.

18 4.27. Admitted.

19 4.28. Admitted.

20 4.29. Denied.

21 4.30. Admitted that Kevin Granillo is a civilian who viewed a portion of the interactions  
22 between the VPD officers and Mr. Abbe on 4/28/20. To the extent this paragraph alleges anything  
23 further or anything different, Defendants deny the same.

24 4.31. Admitted.

1 4.32. Admitted.

2 4.33. Admitted.

3 4.34. Denied.

4 4.35. The portion of this allegation before the comma is admitted, but the remainder is  
5 denied.

6 4.36. Denied.

7 4.37. Denied.

8 4.38. Admitted that there is a video stored in evidence that has the filename  
9 “20200428\_111523.mp4.” Admitted that this video file is four minutes and 18 seconds long.  
10 Denied that video was taken by Mr. Granillo. To the extent this paragraph alleges anything  
11 further or anything different, Defendants deny the same.

12 4.39. Admitted that at the moment the video entitled “20200428\_111523.mp4” begins,  
13 Mr. Abbe is seen upright in a parking lot carrying weapons, and that three VPD officers are  
14 present. Admitted that two officers have their guns drawn at this moment. To the extent this  
15 paragraph alleges anything further or anything different, Defendants deny the same.

16 4.40. Admitted that at the 14 second mark of video entitled “20200428\_111523.mp4,”  
17 five VPD officers are visible, as is Mr. Abbe, who was still carrying weapons. To the extent this  
18 paragraph alleges anything further or anything different, Defendants deny the same.

19 4.41. Admitted that at the 32 second mark of video entitled “20200428\_111523.mp4,”  
20 Sgt. Alie is seen walking. To the extent this paragraph alleges anything further or anything  
21 different, Defendants deny the same.

22 4.42. Admitted that, as reflected in the video, Sgt. Alie moved away from the other  
23 officers and began to speak to Mr. Abbe. To the extent this paragraph alleges anything further or  
24 anything different, Defendants deny the same.  
25

1           4.43. Denied.

2           4.44. Admitted that at the 2 minute mark of video entitled “20200428\_111523.mp4,”  
3 Sgt. Alie is seen next to a C-TRAN van, and that he was continuing to observe and attempt to  
4 interact with Mr. Abbe. To the extent this paragraph alleges anything further or anything  
5 different, Defendants deny the same.

6           4.45. Denied.

7           4.46. Admitted that at the 2 minute, 45 second mark of video entitled  
8 “20200428\_111523.mp4,” Sgt. Alie and Mr. Abbe are seen exchanging words. To the extent this  
9 paragraph alleges anything further or anything different, Defendants deny the same.

10          4.47. Denied.

11          4.48. Admitted that Sgt. Alie drew his gun from his holster at approximately the 2  
12 minute, 54 second mark of the video entitled “20200428\_111523.mp4.” To the extent this  
13 paragraph alleges anything further or anything different, such as that there was no probable cause  
14 to believe that William Abbe was presenting an imminent threat of serious bodily injury at the  
15 time, Defendants deny the same.

16          4.49. Admitted that at approximately the 2 minute, 55 second mark of the video entitled  
17 “20200428\_111523.mp4,” Sgt. Alie aimed his gun at Mr. Abbe’s chest. To the extent this  
18 paragraph alleges anything further or anything different, such as that there was no probable cause  
19 to believe that William Abbe was presenting an imminent threat of serious bodily injury at the  
20 time, Defendants deny the same.

21          4.50. Admitted that one of the other officers had his gun pointed at Mr. Abbe at  
22 approximately the 2 minute, 55 second mark of the video entitled “20200428\_111523.mp4.” To  
23 the extent this paragraph alleges anything further or anything different, Defendants deny the  
24 same.

1           4.51. Denied.

2           4.52. Admitted that Sgt. Alie fired a single round and that the round hit Mr. Abbe's  
3 chest. To the extent this paragraph alleges anything further or anything different, Defendants  
4 deny the same.

5           4.53. Admitted the first round fired by Sgt. Alie hit Mr. Abbe's chest. To the extent this  
6 paragraph alleges anything further or anything different, Defendants deny the same.

7           4.54. This paragraph is denied as an inaccurate description of what is depicted on video.

8           4.55. Admitted Sgt. Alie fired a second round at Mr. Abbe. To the extent this paragraph  
9 alleges anything further or anything different, Defendants deny the same.

10          4.56. Admitted that after Sgt. Alie fired his second round, Mr. Abbe began the process  
11 of falling to the ground. To the extent this paragraph alleges anything further or anything  
12 different, Defendants deny the same.

13          4.57. Admitted that Ofc. Suarez fired a round at Mr. Abbe, and that his round came a  
14 split-second after Sgt. Alie's second round. To the extent this paragraph alleges anything further  
15 or anything different, Defendants deny the same.

16          4.58. Admitted that Ofc. Suarez fired a second round immediately after his first round.  
17 To the extent this paragraph alleges anything further or anything different, Defendants deny the  
18 same.

19          4.59. Admitted that Ofc. Abdala fired one round a split-second after Ofc. Suarez's  
20 second round. To the extent this paragraph alleges anything further or anything different,  
21 Defendants deny the same.

22          4.60. Admitted.

23          4.61. Admitted that at least one of Sgt. Alie's rounds hit Mr. Abbe in the chest. To the  
24 extent this paragraph alleges anything further or anything different, Defendants deny the same.  
25



1 4.62. Denied.

2 4.63. Admitted.

3 4.64. Denied.

4 4.65. Admitted Abbe was alive at the moment officers approached him after the  
5 shooting. To the extent this paragraph alleges anything further or anything different, Defendants  
6 deny the same.

7 4.66. Defendants are without sufficient information to form a belief as to the truth or  
8 falsity of this allegation and therefore deny the same.

9 4.67. Admitted Abbe was handcuffed. To the extent this paragraph alleges anything  
10 further or anything different, Defendants deny the same.

11 4.68. Denied.

12 4.69. Denied.

13 4.70. Admitted Stephanie Nelson was a witness to some of the events on April 28, 2020.  
14 To the extent this paragraph alleges anything further or anything different, Defendants deny the  
15 same.

16 4.71. Admitted that Ms. Nelson told detectives that she was not able to hear anything  
17 Abbe was saying to the police. To the extent this paragraph alleges anything further or anything  
18 different, Defendants deny the same.

19 4.72. Denied as an accurate recitation of what Ms. Nelson told the detectives. Ms.  
20 Nelson told the detectives that Abbe never calmed down or listened to officers, that Abbe was  
21 holding what she believed to be two metal pipes, that she saw Abbe throw a rock at the officers,  
22 and that the police unsuccessfully attempted to tase Abbe, that Abbe turned to “target” Sgt. Alie,  
23 that Abbe then advanced on Sgt. Alie before Ms. Nelson heard two gunshots, that from her  
24 position it then appeared as if Abbe turned and started to approach another officer who then fired  
25

1 his weapon, and that from her position she believed Abbe was going to attack the second officer.  
2 To the extent this paragraph alleges anything further or anything different, Defendants deny the  
3 same.

4 4.73. Denied as an accurate recitation of what Ms. Nelson told the detectives. Ms.  
5 Nelson told the detectives that Abbe never calmed down or listened to officers, that Abbe was  
6 holding what she believed to be two metal pipes, that she saw Abbe throw a rock at the officers,  
7 and that the police unsuccessfully attempted to tase Abbe, that Abbe turned to “target” Sgt. Alie,  
8 that Abbe then advanced on Sgt. Alie before Ms. Nelson heard two gunshots, that from her  
9 position it then appeared as if Abbe turned and started to approach another officer who then fired  
10 his weapon, and that from her position she believed Abbe was going to attack the second officer.  
11 To the extent this paragraph alleges anything further or anything different, Defendants deny the  
12 same.

13 4.74. Denied as an accurate recitation of what Ms. Nelson told the detectives. Ms.  
14 Nelson told the detectives that Abbe never calmed down or listened to officers, that Abbe was  
15 holding what she believed to be two metal pipes, that she saw Abbe throw a rock at the officers,  
16 and that the police unsuccessfully attempted to tase Abbe, that Abbe turned to “target” Sgt. Alie,  
17 that Abbe then advanced on Sgt. Alie before Ms. Nelson heard two gunshots, that from her  
18 position it then appeared as if Abbe turned and started to approach another officer who then fired  
19 his weapon, and that from her position she believed Abbe was going to attack the second officer.  
20 To the extent this paragraph alleges anything further or anything different, Defendants deny the  
21 same.

22 4.75. Admitted.  
23  
24  
25

1           4.76. If the term “body armor” was intended to mean a ballistic vest capable of  
2 providing some protection against gunfire, admitted. To the extent the term meant anything else,  
3 denied.

4           4.77. Admitted Sgt. Alie was the highest ranking member of the police department on  
5 scene prior to the shooting. To the extent this paragraph alleges anything further or anything  
6 different, Defendants deny the same.

7           4.78. Admitted.

8           4.79. Admitted.

9           4.80. Admitted.

10          4.81. Admitted.

11          4.82. Admitted.

12          4.83. Denied as written.

13          4.84. Denied as written.

14          4.85. Defendants are without sufficient information to form a belief as to the truth or  
15 falsity of this allegation and therefore deny the same.

16          4.86. Admitted Sgt. Alie had a shotgun in his vehicle. To the extent this paragraph  
17 alleges anything further or anything different, Defendants deny the same.

18          4.87. Denied.

19          4.88. Denied.

20          4.89. Admitted the shotgun is equipped with a red dot sight. To the extent this paragraph  
21 alleges anything further or anything different, Defendants deny the same.

22          4.90. Admitted.

23          4.91. Admitted Sgt. Alie had a shield in his vehicle. To the extent this paragraph alleges  
24 anything further or anything different, Defendants deny the same.  
25

1 4.92. Admitted.

2 4.93. Admitted.

3 4.94. Admitted.

4 4.95. Admitted that attorney Michael Staropoli was present during the interview. The  
5 word “assisted” is denied. To the extent this paragraph alleges anything further or anything  
6 different, Defendants deny the same.

7 4.96. Denied that Sgt. Alie “chose to engage Mr. Abbe.” Admitted that Sgt. Alie and/or  
8 other officers requested assistance from officers capable of using less lethal force, who did not  
9 arrive prior to the shooting. To the extent this paragraph alleges anything further or anything  
10 different, Defendants deny the same.

11 4.97. Denied that Sgt. Alie “chose to engage Mr. Abbe.” Admitted that Sgt. Alie and/or  
12 other officers requested assistance from officers capable of using less lethal force, who did not  
13 arrive prior to the shooting. To the extent this paragraph alleges anything further or anything  
14 different, Defendants deny the same.

15 4.98. Admitted that Sgt. Alie told Detective Nieman, in one part of the interview that  
16 Plaintiff has taken out of context, “And I look at this and I realize okay this is not somebody  
17 we’re gonna go hands on with in any way. Not - not while he has those in his hands. And I  
18 actually take my - I had both gloves on. I take one glove off 'cause I don’t wanna have a glove  
19 on my gun hand in case I need to use it.” Plaintiff’s attempted paraphrasing of Sgt. Alie’s  
20 statement is denied. To the extent this paragraph alleges anything further or anything different,  
21 Defendants deny the same.

22 4.99. Denied.

23 4.100. Admitted that Sgt. Alie told Detective Nieman, in one part of the interview that  
24 Plaintiff has taken out of context, “I’m really hopin’ that I can just kinda keep this thing contained  
25

1 and settled down, you know, rope-a-dope him conversationally until the 40 gets here our next  
2 reasonable option in - in the use of force. And he just keeps comin'. And, uh, he gets to a point  
3 where he's so close that we're in the engagement distance. I very deliberately pull my gun out  
4 slowly so he can see what's happening." Plaintiff's attempted paraphrasing of Sgt. Alie's  
5 statement is denied. To the extent this paragraph alleges anything further or anything different,  
6 Defendants deny the same.

7 4.101. Admitted that the quote in Paragraph 4.101 is an excerpt from one part of Sgt.  
8 Alie's interview with Det. Nieman. To the extent this paragraph alleges anything further or  
9 anything different, Defendants deny the same.

10 4.102. Admitted that Sgt. Alie fired at least one round at Mr. Abbe, and that he testified  
11 to this fact in his interview with Det. Nieman. To the extent this paragraph alleges anything  
12 further or anything different, Defendants deny the same.

13 4.103. Plaintiff's attempt to paraphrase Sgt. Alie's statement is denied. Sgt. Alie said: "I  
14 fired at him aiming you know high chest as we train. As I'm looking down the barrel at him I see  
15 him react very similarly to the way he reacted to the Taser. He - he - you could tell was some  
16 effect but there was no immediate, uh, it didn't stop him, didn't slow him down." To the extent  
17 this paragraph alleges anything further or anything different, Defendants deny the same.

18 4.104. Plaintiff's attempt to paraphrase Sgt. Alie's statement is denied. Sgt. Alie said: "I  
19 fired at him aiming you know high chest as we train. As I'm looking down the barrel at him I see  
20 him react very similarly to the way he reacted to the Taser. He - he - you could tell was some  
21 effect but there was no immediate, uh, it didn't stop him, didn't slow him down." To the extent  
22 this paragraph alleges anything further or anything different, Defendants deny the same.

1           4.105. Admitted that the quote in Paragraph 4.105 is an excerpt from one part of Sgt.  
2 Alie's interview with Det. Nieman. To the extent this paragraph alleges anything further or  
3 anything different, Defendants deny the same.

4           4.106. Admitted.

5           4.107. Admitted.

6           4.108. Admitted that at one point in the interview with Det. Nieman, Sgt. Alie stated that  
7 he observed Abbe had sustained gunshot wounds. To the extent this paragraph is intended to  
8 suggest this statement occurred simultaneously or immediately after the statement about firing  
9 his weapon, Defendants deny the same. To the extent this paragraph alleges anything further or  
10 anything different, Defendants deny the same.

11          4.109. Denied.

12          4.110. Admitted the quoted language is part of one question asked by Det. Nieman and  
13 part of the answer given by Sgt. Alie. To the extent this paragraph alleges anything further or  
14 anything different, Defendants deny the same.

15          4.111. Admitted the quoted language is part of one question asked by Det. Nieman and  
16 part of the answer given by Sgt. Alie. Plaintiff omits the portion of Sgt. Alie's response where  
17 he said, "it was a very deliberate, um, advance," and that Abbe told Alie in that moment, "I'm  
18 going to kill you." To the extent this paragraph alleges anything further or anything different,  
19 Defendants deny the same.

20          4.112. Admitted Sgt. Alie did not request the presence of a lieutenant or commander  
21 during the incident. To the extent this paragraph alleges anything further or anything different,  
22 Defendants deny the same.

23          4.113. Denied as written. Admitted Sgt. Alie told the Professional Standards Unit the  
24 topic of the investigation being pending came up in passing, but also that neither Sgt. Alie, nor  
25

1 Ofc. Suarez, nor Ofc. Abdala discussed the details of the investigation with anyone other than  
2 who was authorized by policy. To the extent this paragraph alleges anything further or anything  
3 different, Defendants deny the same.

4 4.114. Admitted.

5 4.115. Admitted.

6 4.116. Admitted that Sgt. Alie never personally told Abbe he was under arrest. Denied  
7 that no officer told Abbe he was under arrest. To the extent this paragraph alleges anything further  
8 or anything different, Defendants deny the same.

9 4.117. Denied.

10 4.118. Denied.

11 4.119. Admitted.

12 4.120. If the term "body armor" was intended to mean a ballistic vest capable of  
13 providing some protection against gunfire, admitted. To the extent the term meant anything else,  
14 denied.

15 4.121. Admitted.

16 4.122. Admitted.

17 4.123. The firearm carried by Ofc. Suarez was a Springfield Armory TRP Operator 1911-  
18 style pistol. To the extent paragraph 4.123 is consistent with this fact, admitted. To the extent  
19 otherwise, denied.

20 4.124. Admitted.

21 4.125. Admitted.

22 4.126. The quotation in this paragraph is taken from the computer-aided dispatch report  
23 prepared by the Clark Regional Emergency Services Agency. Admitted that this entry is what  
24

1 the dispatch operator wrote down in response to what Ofc. Suarez said over the air. To the extent  
2 this paragraph alleges anything further or anything different, Defendants deny the same.

3 4.127. Admitted.

4 4.128. Denied.

5 4.129. Admitted that Ofc. Suarez's two rounds occurred subsequent to the two rounds  
6 fired by Sgt. Alie. To the extent this paragraph alleges anything further or anything different,  
7 Defendants deny the same.

8 4.130. Admitted.

9 4.131. Admitted that attorney Nicole Robbins was present during the interview. The  
10 word "assisted" is denied. To the extent this paragraph alleges anything further or anything  
11 different, Defendants deny the same.

12 4.132. Admitted Ofc. Suarez observed Sgt. Alie fire one round at Mr. Abbe. To the extent  
13 this paragraph alleges anything further or anything different, Defendants deny the same.

14 4.133. Admitted.

15 4.134. Admitted that the quote in Paragraph 4.134 is an excerpt from one part of Ofc.  
16 Suarez's interview with Det. Nieman. To the extent this paragraph alleges anything further or  
17 anything different, Defendants deny the same.

18 4.135. Admitted that the quote in Paragraph 4.135 is an excerpt from one part of Ofc.  
19 Suarez's interview with Det. Nieman. To the extent this paragraph alleges anything further or  
20 anything different, Defendants deny the same.

21 4.136. Denied.

22 4.137. Admitted.



1           4.138. Admitted that the quote in Paragraph 4.138 is an excerpt from one part of Ofc.  
2 Suarez's interview with Det. Nieman. To the extent this paragraph alleges anything further or  
3 anything different, Defendants deny the same.

4           4.139. Admitted.

5           4.140. Admitted that the quote in Paragraph 4.140 is an excerpt from one part of Ofc.  
6 Suarez's interview with Det. Nieman. To the extent this paragraph alleges anything further or  
7 anything different, Defendants deny the same.

8           4.141. Admitted.

9           4.142. Denied.

10          4.143. Admitted.

11          4.144. Admitted.

12          4.145. If the term "body armor" was intended to mean a ballistic vest capable of  
13 providing some protection against gunfire, admitted. To the extent the term meant anything else,  
14 denied.

15          4.146. Admitted.

16          4.147. Admitted.

17          4.148. Admitted.

18          4.149. Denied as written.

19          4.150. To the extent this paragraph is construed to allege that Ofc. Abdala's duty pistol  
20 was equipped with a holographic sight, admitted. To the extent this paragraph alleges anything  
21 further or anything different, Defendants deny the same.

22          4.151. Admitted.

23          4.152. Admitted.

24          4.153. Admitted.

1           4.154. Admitted.

2           4.155. Admitted that in his capacity as a Neighborhood Patrol Officer, Officer Abdala  
3 would typically handle issues other than patrol calls. To the extent this paragraph alleges anything  
4 further or anything different, Defendants deny the same.

5           4.156. Admitted that Ofc. Abdala had not seen Mr. Abbe before April 28, 2020. To the  
6 extent this paragraph alleges anything further or anything different, Defendants deny the same.

7           4.157. Admitted.

8           4.158. Admitted.

9           4.159. Denied.

10          4.160. Denied.

11          4.161. Admitted there was a vehicle positioned between Ofc. Abdala and Mr. Abbe at  
12 the moment Ofc. Abdala fired one round. To the extent this paragraph alleges anything further  
13 or anything different, Defendants deny the same.

14          4.162. Denied.

15          4.163. Admitted.

16          4.164. Admitted that attorney Steve Myers was present during the interview. The word  
17 “assisted” is denied. To the extent this paragraph alleges anything further or anything different,  
18 Defendants deny the same.

19          4.165. Admitted that the quote in Paragraph 4.165 is an excerpt from one part of Ofc.  
20 Abdala’s interview with Det. Nieman. To the extent this paragraph alleges anything further or  
21 anything different, Defendants deny the same.

22          4.166. Admitted that the quote in Paragraph 4.166 is an excerpt from one part of Ofc.  
23 Abdala’s interview with Det. Nieman. To the extent this paragraph alleges anything further or  
24 anything different, Defendants deny the same.

1           4.167. Admitted that the quote in Paragraph 4.167 is an excerpt from one part of Ofc.  
2 Suarez's interview with the Professional Standards Unit. The remainder of his answer makes  
3 clear that de-escalation tactics were used by other officers on scene, which means Plaintiff's  
4 attempt to distort Ofc. Suarez's answer to the contrary is disingenuous and untrue. To the extent  
5 this paragraph alleges anything further or anything different, Defendants deny the same.

6           4.168. This paragraph is identical to Paragraph 4.156 and therefore redundant. Admitted  
7 that Ofc. Abdala had not seen Mr. Abbe before April 28, 2020. To the extent this paragraph  
8 alleges anything further or anything different, Defendants deny the same.

9           4.169. Admitted Ofc. Abdala did not personally render first aid. This paragraph is meant  
10 to infer that no Vancouver Police officer rendered first aid, an allegation which is patently false  
11 and denied. To the extent this paragraph alleges anything further or anything different,  
12 Defendants deny the same.

13           4.170. Admitted Ofc. DeGraw was present on scene during the incident at issue in this  
14 litigation. To the extent this paragraph alleges anything further or anything different, Defendants  
15 deny the same.

16           4.171. Admitted Ofc. DeGraw was present on scene during the incident at issue in this  
17 litigation. To the extent this paragraph alleges anything further or anything different, such that  
18 Ofc. DeGraw was the first officer on scene, Defendants deny the same.

19           4.172. Admitted.

20           4.173. Admitted.

21           4.174. Denied.

22           4.175. To the extent this paragraph alleges that Ofc. DeGraw could not recall whether  
23 there was an odor of alcohol coming from Mr. Abbe while Ofc. DeGraw was providing medical  
24

1 aid after the shooting, admitted. To the extent this paragraph alleges anything further or anything  
2 different, Defendants deny the same.

3 4.176. Denied.

4 4.177. Denied.

5 4.178. Admitted Ofc. DeGraw was attempting to communicate with Steven Moffa when  
6 Mr. Abbe threw a large rock at officers in an attempt to injure them. To the extent this paragraph  
7 alleges anything further or anything different, Defendants deny the same.

8 4.179. Admitted the word “stable” was used in Ofc. DeGraw’s interview with detectives,  
9 but this allegation takes that word out of context. As such, denied.

10 4.180. Admitted.

11 4.181. Denied.

12 4.182. Admitted that Steven Moffa told Det. Shields that he a group of Islander teenagers  
13 attempted to rob him at a park. To the extent this paragraph suggests in any way that Mr. Abbe  
14 did not assault Mr. Moffa while Mr. Moffa was at a sidewalk and nowhere near a park, denied.

15 4.183. Admitted that Mr. Moffa told Det. Shields that a teenager had hit him over the  
16 head with re-bar. To the extent this paragraph suggests in any way that Mr. Abbe did not assault  
17 Mr. Moffa while Mr. Moffa was at a sidewalk and nowhere near a park, denied.

18 4.184. Admitted Ofc. DeFebbo was present on scene during the incident at issue in this  
19 litigation. To the extent this paragraph alleges anything further or anything different, Defendants  
20 deny the same.

21 4.185. Admitted.

22 4.186. The quotation in this paragraph is taken from the computer-aided dispatch report  
23 prepared by the Clark Regional Emergency Services Agency. Admitted that this entry is what  
24

1 the dispatch operator wrote down in response to what Ofc. DeFebbo said over the air. To the  
2 extent this paragraph alleges anything further or anything different, Defendants deny the same.

3 4.187. The quotation in this paragraph is taken from the computer-aided dispatch report  
4 prepared by the Clark Regional Emergency Services Agency. Admitted that this entry is what  
5 the dispatch operator wrote down in response to what an officer said over the air. To the extent  
6 this paragraph alleges anything further or anything different, Defendants deny the same.

7 4.188. The quotation in this paragraph is taken from the computer-aided dispatch report  
8 prepared by the Clark Regional Emergency Services Agency. Admitted that this entry is what  
9 the dispatch operator wrote down in response to what Ofc. DeFebbo said over the air. To the  
10 extent this paragraph alleges anything further or anything different, Defendants deny the same.

11 4.189. Admitted.

12 4.190. Denied.

13 4.191. Denied.

14 4.192. Admitted.

15 4.193. Admitted that at the earlier incident, an officer had attempted contact with Mr.  
16 Abbe before Ofc. DeFebbo arrived. To the extent this paragraph alleges anything further or  
17 anything different, Defendants deny the same.

18 4.194. To the extent this paragraph is referring to the earlier incident, admitted. To the  
19 extent this paragraph alleges anything further or anything different, Defendants deny the same.

20 4.195. Admitted that at the earlier incident, Ofc. DeFebbo told Mr. Abbe "Police you  
21 need to stop stop right now." To the extent this paragraph alleges anything further or anything  
22 different, Defendants deny the same.

23 4.196. Admitted that at the earlier incident, Mr. Abbe refused to comply with Ofc.  
24 DeFebbo's commands. Plaintiff's characterization of Mr. Abbe's choice of words is denied. To  
25

1 the extent this paragraph alleges anything further or anything different, Defendants deny the  
2 same.

3 4.197. Admitted that at the earlier incident, Mr. Abbe refused to comply with Ofc.  
4 DeFebbo's repeated commands. To the extent this paragraph alleges anything further or anything  
5 different, Defendants deny the same.

6 4.198. Admitted the officers terminated contact at the earlier incident. To the extent this  
7 paragraph alleges anything further or anything different, Defendants deny the same.

8 4.199. Admitted that Ofc. Ken Suvada was dispatched to the scene at 11:15 a.m. To the  
9 extent this paragraph alleges anything further or anything different, Defendants deny the same.

10 4.200. Admitted that Ofc. Suvada announced over the air that he was en route after being  
11 dispatched. To the extent this paragraph alleges anything further or anything different,  
12 Defendants deny the same.

13 4.201. To the extent "involved" means providing medical aid after the shooting,  
14 admitted. Otherwise denied.

15 4.202. Admitted.

16 4.203. Admitted.

17 4.204. Admitted.

18 4.205. Denied.

19 4.206. Admitted.

20 4.207. Admitted that Ofc. Epperson responded to the incident and that the use of K9s can  
21 potentially mitigate different uses of force. To the extent this paragraph alleges anything further  
22 or anything different, Defendants deny the same.

23 4.208. Admitted that the use of K9s can be successful in gaining compliance. Denied that  
24 such compliance is universal, or that the use of K9 would have yielded a different result in this  
25

1 incident. To the extent this paragraph alleges anything further or anything different, Defendants  
2 deny the same.

3 4.209. Admitted.

4 4.210. To the extent this paragraph alleges that Ofc. Epperson could not see Mr. Abbe's  
5 hands at all at the precise moment he arrived, admitted. To the extent this paragraph alleges Mr.  
6 Abbe did not hold lethal weapons in his hands at the time of the shooting, denied. To the extent  
7 this paragraph alleges anything further or anything different, Defendants deny the same.

8 4.211. Admitted.

9 4.212. This paragraph is redundant to Paragraph 4.212. That response is incorporated by  
10 reference.

11 4.213. Admitted Ofc. Epperson responded "Yeah" to a follow up question that stated,  
12 "Okay, and when you say, 'breaths' you – do you mean, like - like, agonal breathing, like..." To  
13 the extent this paragraph alleges anything further or anything different, Defendants deny the  
14 same.

15 4.214. Admitted Ofc. Olson was present on scene during the incident at issue in this  
16 litigation. To the extent this paragraph alleges anything further or anything different, Defendants  
17 deny the same.

18 4.215. Admitted.

19 4.216. Admitted that the quote in Paragraph 4.216 is an excerpt from one part of Ofc.  
20 Olson's interview. To the extent this paragraph alleges anything further or anything different,  
21 Defendants deny the same.

22 4.217. Denied.

23 4.218. Admitted Ofc. Douville arrived after the shots were fired.

24 4.219. Admitted.  
25

1 4.220. Admitted.

2 4.221. Admitted.

3 4.222. Admitted.

4 4.223. Admitted.

5 4.224. Admitted.

6 4.225. Admitted Ofc. Nicholson was present on scene during the incident at issue in this  
7 litigation. To the extent this paragraph alleges anything further or anything different, Defendants  
8 deny the same.

9 4.226. Admitted.

10 4.227. Admitted.

11 4.228. Admitted.

12 4.229. Admitted Ofc. Nicholson did not fire his weapon. To the extent this paragraph  
13 alleges anything further or anything different, Defendants deny the same.

14 4.230. Denied.

15 4.231. Admitted.

16 4.232. Denied.

17 4.233. Admitted Ofc. Nicholson stated during his interview his belief that the second  
18 round hit Mr. Abbe in the back. To the extent this paragraph alleges anything further or anything  
19 different, Defendants deny the same.

20 4.234. To the extent this paragraph alleges that Mr. Abbe's approximate time of death  
21 was declared by a physician at the hospital to be 11:49 a.m., admitted. Otherwise denied.

22 4.235. Defendants are without sufficient information to form a belief as to the truth or  
23 falsity of this allegation and therefore deny the same.

24 4.236. Admitted.



1           4.237. Defendants are without sufficient information to form a belief as to the truth or  
2 falsity of this allegation and therefore deny the same.

3           4.238. Admitted.

4           4.239. Admitted.

5  
6           In answer to paragraphs 4.240-4.250, Defendants note that Plaintiff and her attorney are  
7 in possession of Dr. Quinn's autopsy report. The majority of the allegations in these paragraphs  
8 misconstrue or distort Dr. Quinn's findings. For example, Dr. Quinn did not conclude that more  
9 than three bullets hit Mr. Abbe. The report speaks for itself. To the extent paragraphs 4.240-4.250  
10 say anything other than what is a verbatim replication of what is in the autopsy report, they are  
11 denied.

12  
13           4.251. Admitted.

14           4.252. Admitted.

15           4.253. Admitted that the bullet found in Mr. Abbe's left hip was .45 caliber bullet that  
16 was not deformed. To the extent this paragraph alleges anything further or anything different,  
17 Defendants deny the same.

18           4.254. Admitted.

19           4.255. Admitted Detective Swenson located a bullet inside Mr. Abbe's leather jacket and  
20 that the bullet was 9mm. To the extent this paragraph alleges anything further or anything  
21 different, Defendants deny the same.

22           4.256. Admitted.

23           4.257. Admitted that Dr. Quinn noted abrasions on Mr. Abbe's forehead. To the extent  
24 this paragraph alleges anything further or anything different, Defendants deny the same.  
25

1           4.258. Admitted Sgt. Alie's, Ofc. Suarez's, and Ofc. Abdala's duty pistols were taken as  
2 evidence. To the extent this paragraph alleges anything further or anything different, Defendants  
3 deny the same.

4           4.259. Admitted.

5           4.260. Admitted.

6           4.261. Admitted.

7           4.262. Admitted.

8           4.263. Admitted.

9           4.264. Admitted in part. Admitted the WSP Crime Lab concluded Item 49 could not be  
10 identified or eliminated as having been fired from Ofc. Abdala's pistol, but the Lab also  
11 concluded Item 49 was determined to exhibit the same class characteristics as the test fires from  
12 Ofc. Abdala's pistol. To the extent paragraph 4.264 is consistent with the foregoing, admitted.  
13 To the extent otherwise, denied.

14           4.265. Admitted.

15           4.266. Admitted.

16           4.267. Admitted.

17           4.268. Admitted.

18           4.269. Admitted.

19           4.270. Denied.

20           4.271. Denied.

21           4.272. Denied.

22           4.273. Admitted that the officers had received a substantial amount of training, including  
23 de-escalation tactics. To the extent this paragraph alleges anything further or anything different,  
24 Defendants deny the same.

1 4.274. Denied.

2 4.275. Denied.

3 4.276. Admitted no other officer fired any bullets at Mr. Abbe. To the extent this  
4 paragraph alleges anything further or anything different, Defendants deny the same.

5 4.277. Denied.

6 4.278. Denied.

7 4.279. Denied.

8 4.280. Denied.

9 4.281. Denied.

10 4.282. Denied.

11 4.283. Denied.

12 4.284. Denied.

13 4.285. Denied.

14 4.286. Denied.

15 4.287. Denied.

16 4.288. Denied.

17 4.289. Denied.

18 4.290. Denied.

19 4.291. Denied.

20 4.292. Denied.

21 4.293. Denied.

22 4.294. Denied.

23 4.295. Denied.

24 4.296. Denied.

1           4.297. The quoted language is taken out of context from an eight-page document that  
2 constitutes [VPD Policy 463, Crisis Intervention Incidents](#). To the extent this paragraph alleges  
3 anything further or anything different, Defendants deny the same.

4           4.298. Denied.

5           4.299. The quoted language does not appear anywhere in the eight-page document that  
6 constitutes [VPD Policy 463, Crisis Intervention Incidents](#). As such, denied.

7           4.300. Admitted to the extent the language is an accurate paraphrasing of [Section 463.4](#)  
8 [of the VPD Policy Manual](#). Denied that this is a full and complete summary of the policy. To the  
9 extent this paragraph alleges anything further or anything different, Defendants deny the same.

10           4.301. Admitted to the extent the language is an accurate paraphrasing of [Section 463.4](#)  
11 [of the VPD Policy Manual](#). Denied that this is a full and complete summary of the policy. To the  
12 extent this paragraph alleges anything further or anything different, Defendants deny the same.

13           4.302. Denied.

14           4.303. Denied.

15           4.304. Denied.

16           4.305. Denied.

17           4.306. Denied.

18           4.307. Denied.

19           4.308. Admitted that Sgt. Alie, Ofc. Suarez, and Ofc. Abdala were assigned Guild  
20 Representatives. To the extent this paragraph alleges anything further or anything different,  
21 Defendants deny the same.

22           4.309. Admitted James McElvain has been the Chief of Police for the City of Vancouver  
23 since before April 28, 2020. To the extent this paragraph alleges anything further or anything  
24 different, Defendants deny the same.  
25

1 4.310. Denied.

2 4.311. The number of sworn officers is not accurate. Otherwise admitted.

3 4.312. Admitted.

4 4.313. Admitted.

5 4.314. Admitted the quoted language is a portion of the statement Chief McElvain  
6 released. To the extent this paragraph alleges anything further or anything different, Defendants  
7 deny the same.

8 4.315. Denied.

9 4.316. Denied. The role of nonlaw enforcement individuals is specified in WAC 139-12-  
10 030, and that role does not include carrying out the investigation.

11 4.317. Admitted.

12 4.318. Denied the City of Vancouver or any of its employees had any role in how the  
13 Southwest Washington Independent Investigative Team was comprised for this incident. To the  
14 extent this paragraph alleges anything further or anything different, Defendants deny the same.

15 4.319. Denied the City of Vancouver or any of its employees had any role in how the  
16 Southwest Washington Independent Investigative Team was comprised for this incident. To the  
17 extent this paragraph alleges anything further or anything different, Defendants deny the same.

18 4.320. Denied the City of Vancouver or any of its employees had any role in how the  
19 Southwest Washington Independent Investigative Team was comprised for this incident. To the  
20 extent this paragraph alleges anything further or anything different, Defendants deny the same.

21 4.321. This allegation is a characterization of a statute and/or regulation and therefore  
22 requires no response. To the extent any response is required, Defendants deny any wrongdoing.  
23  
24  
25

1           4.322. Denied the City of Vancouver or any of its employees had any role in how the  
2 Southwest Washington Independent Investigative Team was comprised for this incident. To the  
3 extent this paragraph alleges anything further or anything different, Defendants deny the same.

4           4.323. Admitted the City of Vancouver conducted an investigation through its  
5 Professional Standards Unit (internal affairs). To the extent this paragraph alleges anything  
6 further or anything different, Defendants deny the same.

7           4.324. Admitted the identification number assigned to PSU's investigation was IAC  
8 2020-0047. To the extent this paragraph alleges anything further or anything different,  
9 Defendants deny the same.

10           4.325. Denied.

11           4.326. Denied.

12           4.327. Denied.

13           4.328. Admitted Chief McElvain made minor edits to the IA Summary, none of which  
14 affected the substance of the summary. Denied he participated in the investigation or influenced  
15 the findings in any way. To the extent this paragraph alleges anything further or anything  
16 different, Defendants deny the same.

17           4.329. Admitted Chief McElvain made minor edits to the IA Summary, none of which  
18 affected the substance of the summary. Denied he participated in the investigation or influenced  
19 the findings in any way. To the extent this paragraph alleges anything further or anything  
20 different, Defendants deny the same.

21           4.330. Denied.

22           4.331. Denied.

23           4.332. Admitted Chief McElvain made minor edits to the IA Summary, none of which  
24 affected the substance of the summary. Denied he participated in the investigation or influenced  
25

1 the findings in any way. To the extent this paragraph alleges anything further or anything  
2 different, Defendants deny the same.

3 4.333. Admitted the quoted text is an excerpt from the email described in this paragraph.  
4 To the extent this paragraph alleges anything further or anything different, Defendants deny the  
5 same.

6 4.334. Admitted.

7 4.335. Admitted.

8 4.336. Admitted.

9 4.337. The acronym for VPOG is misspelled, but otherwise admitted.

10 4.338. Admitted VPOG provides union representation for its members. To the extent this  
11 paragraph alleges anything further or anything different, Defendants deny the same.

12 4.339. The acronym for VPOG is misspelled, but otherwise admitted.

13 4.340. To the extent “10/7/202” was intended to mean “10/7/20” or “10/7/2020,”  
14 admitted. Otherwise denied.

15 4.341. Admitted the topic of the PSU investigation was discussed between the Assistant  
16 Chief of Police and the President of the Vancouver Police Officers’ Guild. To the extent this  
17 paragraph alleges anything further or anything different, Defendants deny the same.

18 4.342. Denied.

19 4.343. Admitted the topic of IAC 2020-047 was discussed between the Chief and  
20 Assistant Chiefs. To the extent this paragraph alleges anything further or anything different,  
21 Defendants deny the same.

22 4.344. Admitted Assistant Chief Mori sent an email at 4:20 p.m. on October 12, 2020, to  
23 Chief McElvain and the two other Assistant Chiefs referenced in this paragraph. To the extent  
24 this paragraph alleges anything further or anything different, Defendants deny the same.  
25

1 4.345. Admitted.

2 4.346. Admitted.

3 4.347. Admitted.

4 4.348. To the extent this paragraph acknowledges Chief McElvain made a “quick  
5 review” with minor “comments,” admitted. Otherwise denied.

6 4.349. Admitted.

7 4.350. To the extent this paragraph is consistent with Chief McElvain’s actual comment,  
8 “Was it a fight? I’m not sure this accurately reflects what occurred based on other  
9 documentation,” admitted. Otherwise, denied.

10 4.351. Admitted the final version of the Investigative Summary states, “Wishon was  
11 already in the area for a separate call for service involving the two men when the disturbance  
12 occurred.” To the extent this paragraph alleges anything further or anything different, Defendants  
13 deny the same.

14 4.352. To the extent this paragraph alleges the comments sought to substantively  
15 influence the investigation or findings in any way, denied. Admitted that there are five  
16 “comments” by Chief McElvain on the rough draft of the document. To the extent this paragraph  
17 alleges anything further or anything different, Defendants deny the same.

18 4.353. Denied.

19 4.354. Admitted Chief McElvain’s tracked changes document was ultimately routed to  
20 Sgt. Krebs. To the extent this paragraph alleges anything further or anything different,  
21 Defendants deny the same.

22 4.355. Denied.

23 4.356. Denied.

24 4.357. Denied.



1 4.358. Denied.

2 4.359. Denied.

3 4.360. Denied.

4 4.361. Denied.

5 4.362. Admitted.

6 4.363. Admitted.

7 4.364. Admitted.

8 4.365. Admitted.

9 4.366. Admitted.

10 4.367. To the extent this paragraph alleges the investigative summary did not identify  
11 the pathway of any bullet fired, admitted. If this paragraph was meant to allege that a specific  
12 shot was deliberately excluded, denied. To the extent this paragraph alleges anything further or  
13 anything different, Defendants deny the same.

14 4.368. Denied.

15 4.369. Denied.

16 4.370. Denied.

17 4.371. The allegations in this paragraph call for a conclusion of law which are referred  
18 to the Court and therefore denied.

19 4.372. Denied.

20 4.373. Denied.

21 4.374. Admitted that Lt. Knotts made the decision to exonerate Sgt. Alie, Ofc. Suarez,  
22 and Ofc. Abdala of alleged policy violations. To the extent this paragraph alleges anything further  
23 or anything different, Defendants deny the same.

24 4.375. Admitted.

1 4.376. Admitted.

2 4.377. Admitted.

3 4.378. Admitted in part. The phrase from the PERF report that Plaintiff is attempting to  
4 copy and paste reads: “PERF’s review included a thorough analysis of VPD’s use-of-force  
5 policies to determine whether they are aligned with progressive practices and national standards.”  
6 To the extent this paragraph intended to omit the language from the above sentence, denied.  
7 Otherwise admitted.

8 4.379. Admitted.

9 4.380. Admitted.

10 4.381. Admitted.

11 4.382. Admitted that PERF recommended that the chief always be the final  
12 decisionmaker regarding the finding on officer-involved shootings. To the extent this paragraph  
13 alleges anything further or anything different, Defendants deny the same.

14 4.383. This paragraph is an introduction to the subparagraphs that follow, and therefore  
15 requires no response here.

16 4.383.1 Admitted.

17 4.383.2 Admitted.

18 4.383.3 Admitted.

19 4.383.4 Admitted.

20 4.383.5 Admitted.

21 4.383.6 Admitted.

22 4.383.7 Admitted.

23 4.383.8 Admitted.

24 4.384. Admitted.

1 4.385. Admitted.

2 4.386. Denied.

3 4.387. This allegation calls for a conclusion of law which is referred to the Court and  
4 therefore denied.

5 4.388. Admitted.

6 4.389. Admitted.

7 4.390. Denied.

8 4.391. Admitted at the time of the PERF review, there existed a policy that addressed  
9 vascular neck restraints. To the extent this paragraph alleges anything further or anything  
10 different, Defendants deny the same.

11 4.392. Admitted that the version of VPD Policy 300 in effect on April 28, 2020,  
12 authorized use of deadly force where an officer reasonably believed that there was an imminent  
13 risk of serious physical injury or death to any a person, consistent with the law. Defendants deny  
14 that the policy was confusing. To the extent this paragraph alleges anything further or anything  
15 different, Defendants deny the same.

16 4.393. Denied.

17 4.394. Denied.

18 4.395. Admitted that the version of VPD Policy 300 in effect on April 28, 2020, stated  
19 in part an “officer should only discharge a firearm at a moving vehicle or its occupants when the  
20 officer reasonably believes there are no other reasonable means available to avert the threat of  
21 the vehicle.” To the extent this paragraph alleges anything further or anything different,  
22 Defendants deny the same.

23 4.396. Admitted that the version of VPD Policy in effect on April 28, 2020 stated in part  
24 “Other than an incident in which an officer's interview shall be used as a substitute, any use of  
25

1 force by a member of this Department shall be documented in the related police reports,  
2 depending on the nature of the incident.” To the extent this paragraph alleges anything further or  
3 anything different, Defendants deny the same.

4 4.397. Admitted that VPD Policy does not require a supervisor to be dispatched in all  
5 circumstances. To the extent this paragraph alleges anything further or anything different,  
6 Defendants deny the same.

7 4.398. Admitted that VPD policy did not include a definition of “de-escalation.” To the  
8 extent this paragraph alleges that VPD officers are not trained on de-escalation techniques and  
9 the meaning of the term “de-escalation,” Defendants deny the same. To the extent this paragraph  
10 alleges anything further or anything different, Defendants deny the same.

11 4.399. Admitted the quote in this paragraph of Plaintiff’s Complaint appears in the PERF  
12 report as citing a policy from the Seattle Police Department. To the extent this paragraph alleges  
13 anything further or anything different, Defendants deny the same.

14 4.400. Denied.

15 4.401. Admitted the quote in this paragraph of Plaintiff’s Complaint appears in the PERF  
16 report as citing a policy from the Camden County Police Department. To the extent this paragraph  
17 alleges anything further or anything different, Defendants deny the same.

18 4.402. Denied.

19 4.403. Denied.

20 4.404. Admitted this was a finding of PERF, but Plaintiff omits the remainder of the  
21 finding that “there do not appear to be any policy or reporting changes that would account for an  
22 increase of this size.” To the extent this paragraph alleges anything further or anything different,  
23 Defendants deny the same.

24 4.405. Admitted.  
25

1 4.406. To the extent “mental health indicators” means the five characteristics delineated  
2 on Page 59 of the PERF report, admitted. To the extent this paragraph alleges anything further  
3 or anything different, Defendants deny the same.

4 4.407. Admitted this was one of the findings in the PERF report. To the extent this  
5 paragraph alleges anything further or anything different, Defendants deny the same.

6 4.408. This paragraph is identical to Paragraph 4.406. Defendants incorporate that  
7 admission and denial herein. To the extent this paragraph alleges anything further or anything  
8 different, Defendants deny the same.

9 4.409. Admitted the graph pasted into this paragraph of Plaintiff’s Complaint is one of  
10 several graphs and/or charts from the PERF report. To the extent this paragraph alleges anything  
11 further or anything different, Defendants deny the same.

12 4.410. Admitted that the PERF report stated “of the subjects in serious force incidents,  
13 more than 50% were thought to have a mental illness as reported by officers, as compared to  
14 27.3% of subjects in the overall use-of-force data.” To the extent this paragraph alleges anything  
15 further or anything different, Defendants deny the same.

16 4.411. To the extent Paragraph 4.411 alleges VPD officers were receiving inadequate  
17 training, it is denied. To the extent Paragraph 4.411 alleges that law enforcement officers should,  
18 in general, receive mental health training, it is admitted. To the extent this paragraph alleges  
19 anything further or anything different, Defendants deny the same.

20 4.412. Admitted that the Washington Attorney General issued Opinion No. 8 in 2014.  
21 The Attorney General Opinion speaks for itself. Plaintiff’s characterization of that opinion is  
22 denied.

23 4.413. Denied.

24 4.414. Denied.

1           4.415. Admitted that on the date of submitting this Amended Answer, Chief McElvain  
2 has not mandated body cameras. To the extent this paragraph alleges anything further or anything  
3 different, Defendants deny the same.

4           4.416. Admitted that on the date of submitting this Amended Answer, no officer at the  
5 Vancouver Police Department uses a body worn camera. To the extent this paragraph alleges  
6 anything further or anything different, Defendants deny the same.

7           4.417. Denied.

8           4.418. Denied.

9           4.419. Admitted that on the date of submitting this Amended Answer, Chief McElvain  
10 has not mandated patrol vehicle cameras. To the extent this paragraph alleges anything further  
11 or anything different, Defendants deny the same.

12          4.420. Denied.

13          4.421. Admitted the quoted text is an excerpt from Eric Holmes' statement on the officer-  
14 involved shooting. To the extent this paragraph alleges anything further or anything different,  
15 Defendants deny the same.

16          4.422. Admitted.

17          4.423. Admitted.

18          5.1     Defendants incorporate by reference all paragraphs as if fully set forth herein.

19          5.2     Denied.

20          5.3     Denied.

21          5.4     Denied.

22          5.5     Denied.

23          5.6     Denied.

24          5.7     Denied.

1           6.1-6.8     The Court has dismissed Plaintiff's Second Cause of Action. (Dkt. 13.) No  
2 response is therefore required to Paragraphs 6.1-6.8.

3           7.1     Defendants incorporate by reference all paragraphs as if fully set forth herein.

4           7.2     Admitted.

5           7.3     Denied.

6           7.4     Admitted that James McElvain, a non-party, is employed by the City of  
7 Vancouver as its Police Chief. To the extent this paragraph alleges anything further or anything  
8 different, Defendants deny the same.

9           7.5     This allegation calls for a conclusion of law which is referred to the Court and  
10 therefore denied.

11           7.6     Admitted that Chief McElvain became aware Defendants Alie, Suarez, and  
12 Abdala used their firearms in the incident in which William Abbe was shot. To the extent this  
13 paragraph alleges anything further or anything different, Defendants deny the same.

14           7.7     Denied.

15           7.8     Denied.

16           7.9     The Court has dismissed Plaintiff's claims for punitive damages against  
17 Defendant City of Vancouver. (Dkt. 13.) Therefore, no response to this paragraph is required.

18           8.1     Defendants incorporate by reference all paragraphs as if fully set forth herein.

19           8.2     Admitted.

20           8.3     Denied.

21           In response to paragraphs 8.4-8.5, Defendants admit that the City of Vancouver has  
22 policies governing the use of deadly force. To the extent these paragraphs allege anything further  
23 or anything different, Defendants deny the same.

24           8.6     Denied.

1           8.7     The Court has dismissed Plaintiff's claims for punitive damages against  
2 Defendant City of Vancouver. (Dkt. 13.) Therefore, no response to this paragraph is required.

3           9.1     Defendants incorporate by reference all paragraphs as if fully set forth herein.

4           9.2     Admitted.

5           9.3     This allegation calls for a conclusion of law which is referred to the Court and  
6 therefore denied.

7           9.4     This allegation calls for a conclusion of law which is referred to the Court and  
8 therefore denied.

9           9.5     This allegation calls for a conclusion of law which is referred to the Court and  
10 therefore denied.

11          9.6     Denied.

12          9.7     Defendants admit that Alie, Suarez, and Abdala were acting within the course and  
13 scope of their employment on April 28, 2020. The remainder of this paragraph calls for a  
14 conclusion of law which is referred to the Court and therefore denied.

15          9.8     Denied.

16          9.9     Denied.

17          10.1    Defendants incorporate by reference all paragraphs as if fully set forth herein.

18          10.2    Denied.

19          10.3    Defendants admit that Alie, Suarez, and Abdala were acting within the course and  
20 scope of their employment on April 28, 2020. The remainder of this paragraph calls for a  
21 conclusion of law which is referred to the Court and therefore denied.

22          10.4    Denied.

23          11.1    Defendants incorporate by reference all paragraphs as if fully set forth herein.

24          11.2    Denied.



11.3 Denied.

In answer to paragraphs 12.1-13.3, Defendants admit that Defendants Alie, Suarez, and Abdala acted within the course and scope of their employment on April 28, 2020. To the extent these paragraphs allege anything further or anything different, Defendants deny the same.

In answer to 14.1-14.7, Defendants deny that Plaintiff is entitled to any relief.

As to any allegation to which Defendants have not yet responded, such allegations are specifically denied.

### **AFFIRMATIVE DEFENSES**

Having fully answered plaintiff's complaint, and without waiving any admissions, denials, or responses previously set forth, Defendants affirmatively allege as follows:

1. Defendants Alie, Suarez, and Abdala are entitled to qualified immunity.
2. At the time William Abbe's injury and death, he was engaged in the commission of a felony, the commission of which was a proximate cause of his injury and death, thus barring all state law causes of action pursuant to RCW 4.20.420.
3. At the time of his injuries and death, William Abbe was under the influence of intoxicating liquor and/or drugs, thus reducing or barring recovery under RCW 5.40.060.
4. Plaintiff's damages, if any, were caused in whole or in part by his own fault to reduce or bar recovery under contributory fault and/or assumption of risk principles.
5. Defendants' actions were privileged as self-defense and/or defense of others, thus barring Plaintiff's state law claims for assault and battery.
6. At the time William Abbe's injury and death, there was probable cause to believe William Abbe had committed a felony and/or was about to commit a felony.

**PRAYER**

WHEREFORE, having fully answered Plaintiff's Complaint and asserted its affirmative defenses, Defendants pray for judgment as follows:

1. That Plaintiff take nothing by her complaint and this action be dismissed with prejudice.
2. That Defendants be awarded their costs and a reasonable attorneys' fees to the extent allowable by law.
3. Any other relief the court deems just and equitable.

DATED on March 25, 2022.

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